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HOUSE BILL 501

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTION REFORM; CHANGING THE EFFECTIVE DATE FOR
MANDATORY ELECTRONIC FILING OF CAMPAIGN REPORTS TO 2004;
ALLOWING POLLWATCHERS IN PRIMARY AND SPECIAL ELECTIONS;
MODIFYING FILING REQUIREMENTS FOR CAMPAIGN REPORTS; CHANGING
THE REPORTING FORMAT OF ELECTION RETURN DATA; ALLOWING EARLY
PROCESSING OF ABSENTEE BALLOTS; REQUIRING NEW VOTING SYSTEMS
AND TABULATORS TO BE CAPABLE OF REPORTING ELECTION RETURNS
ELECTRONICALLY IN A STANDARD FORMAT AS WELL AS ON PAPER;
ALLOWING COUNTY COMMISSIONS TO REQUEST SECRETARY OF STATE
ASSISTANCE FOR CANVASSING ELECTION RETURNS; ESTABLISHING
RECOUNT PROCEDURES FOR NON-CANDIDATE ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-2-27 NMSA 1978 (being Laws 1969,
Chapter 240, Section 46, as amended) is amended to read:

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1 "1-2-27. WATCHERS--APPOINTMENT.--

2 A. The county chairman of each political party
3 represented on the ballot may appoint in writing two watchers
4 for each precinct. If any county chairman fails to make the
5 appointments, the precinct chairman of the political party may
6 appoint in writing two watchers for the precinct. If any
7 precinct chairman fails to make the appointments, or if no
8 person properly appointed is present at the polling place and
9 offers to serve, the voters present belonging to that political
10 party may appoint in writing two watchers.

11 B. [~~In a general election~~] A candidate for elected
12 office and an election-related organization may appoint one
13 watcher per polling place if the candidate or organization
14 makes a written request to the secretary of state at least
15 twenty days prior to the election date and specifies the
16 polling place to be watched and the name of the qualified
17 appointee. The secretary of state shall notify the county
18 clerk of the qualified appointees at least ten days before the
19 election. For the purposes of this section, "election-related
20 organization" means a nonpartisan organization involved in
21 voter turnout activities.

22 C. In a primary election any group of six
23 candidates for county office for each political party
24 participating in the election may appoint in writing an
25 additional watcher for each precinct. No candidate, however,

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1 shall join in more than one request for an additional watcher.

2 D. In a primary election any group of three
3 candidates seeking nomination for statewide or district office
4 may appoint in writing one watcher for each of those precincts
5 as they may desire. No candidate, however, shall join in more
6 than one request for an additional watcher at any precinct."

7 Section 2. Section 1-6-5.4 NMSA 1978 (being Laws 1999,
8 Chapter 267, Section 3) is amended to read:

9 "1-6-5.4. SECURITY--COUNTING AND CANVASSING.--The
10 secretary of state shall adopt rules for protecting the
11 integrity, security and secrecy of the absentee ballots,
12 including procedures specifying that machines and ballot
13 containers remain locked and that ballots not be removed prior
14 to election day; procedures for voting by absentee ballot;
15 separation of absentee ballots voted on electronic voting
16 machines twenty days before the election from those received
17 through the mail; disposition of absentee ballots rejected by a
18 voting machine; and handling of, registering, counting and
19 canvassing of absentee ballots [~~and sorting of absentee ballots~~
20 ~~by representative district for canvassing purposes~~]."

21 Section 3. Section 1-6-10 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 136, as amended) is amended to read:

23 "1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--

24 A. The county clerk shall mark on each completed
25 official mailing envelope the date and time of receipt in the

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1 clerk's office, record this information in the absentee ballot
2 register and safely keep the official mailing envelope unopened
3 in a locked and number-sealed ballot box [~~except as provided in~~
4 ~~Subsection H of Section 1-6-14 NMSA 1978~~] until it is delivered
5 [~~on election day~~] to the proper absent voter precinct board or
6 until it is canceled and destroyed in accordance with law.

7 B. The county clerk shall accept completed official
8 mailing envelopes until 7:00 p.m. on election day. Any
9 completed official mailing envelope received after that time
10 shall not be delivered to a precinct board but shall be
11 preserved by the county clerk until the time for election
12 contests has expired. In the absence of a restraining order
13 after expiration of the time for election contests, the county
14 clerk shall destroy all late official mailing envelopes without
15 opening or permitting the contents to be examined, cast,
16 counted or canvassed. Before their destruction, the county
17 clerk shall count the numbers of late ballots from voters,
18 federal voters, overseas citizen voters and federal qualified
19 electors and report the number from each category to the
20 secretary of state.

21 C. At 5:00 p.m. on the Monday immediately preceding
22 the date of election, the county clerk shall record the numbers
23 of the unused absentee ballots and shall publicly destroy in
24 the county clerk's office all such unused ballots. The county
25 clerk shall execute a certificate of destruction, which shall

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1 include the numbers on the absentee ballots destroyed. A copy
2 of the certificate of destruction shall be sent to the
3 secretary of state."

4 Section 4. Section 1-6-11 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 137, as amended) is amended to read:

6 "1-6-11. DELIVERY OF ABSENTEE BALLOTS TO ABSENT VOTER
7 PRECINCTS.--

8 A. On the Thursday immediately preceding election
9 day, the county clerk shall deliver to the special deputy
10 county clerks for delivery to the absent voter precinct board
11 the absentee ballots received prior to that day. The special
12 deputy county clerk shall issue a receipt for all ballots
13 delivered for the county clerk and shall observe the listing of
14 the names on the official mailing envelopes in the signature
15 rosters. The special deputy county clerk shall then obtain a
16 receipt executed by the presiding judge and each election judge
17 and shall return the receipt to the county clerk for filing.
18 The receipts shall specify the number of envelopes received by
19 the special deputy county clerk from the county clerk for the
20 absent voter precinct and the number of envelopes received by
21 the absent voter precinct board from the special deputy county
22 clerk.

23 [~~A.~~] B. On election day, the county clerk shall
24 deliver the absentee ballots received after the Wednesday
25 immediately preceding election day, but prior to 7:00 p.m. on

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1 election day to the special deputy county clerks for delivery
2 to the absent voter precinct boards. [~~The absentee ballots for~~
3 ~~each absent voter precinct shall be separately wrapped, and]~~
4 The special deputy county clerk shall issue a receipt for all
5 ballots delivered for the county clerk [~~Upon delivery of the~~
6 ~~absentee ballots to the absent voter precinct board, the~~
7 ~~special deputy county clerk shall remain in the polling place~~
8 ~~of the absent voter precinct until he has observed the opening~~
9 ~~of the official mailing envelope, the deposit of the ballot in~~
10 ~~the locked ballot box and the]~~ and observe the listing of the
11 names on the official mailing envelope in the signature
12 rosters. [~~Upon such delivery of absentee ballots]~~ The special
13 deputy county clerk shall then obtain a receipt executed by the
14 presiding judge and each election judge and [~~he~~] shall return
15 [~~such~~] the receipt to the county clerk for filing. The
16 receipts shall specify the number of envelopes received by the
17 special deputy county clerk from the county clerk for each
18 absent voter precinct and the number of envelopes received by
19 the absent voter precinct board from the special deputy county
20 clerk.

21 [~~B.~~] C. At 7:00 a.m. on election day, the county
22 clerk shall deliver the electronic voting machines used for
23 absentee voting to the absent voter precinct board. The
24 machines shall not be used to vote on or count additional
25 ballots for that election. A special deputy county clerk shall

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1 issue a receipt for each voting machine. Upon delivery of a
2 voting machine, the special deputy shall obtain a receipt
3 executed by the presiding judge and each election judge
4 specifying the serial number and the seal number of the machine
5 and shall verify the public counter number on the machine, and
6 [he] shall return the receipt to the county clerk for filing."

7 Section 5. Section 1-6-14 NMSA 1978 (being Laws 1971,
8 Chapter 317, Section 11, as amended by Laws 2003, Chapter 354,
9 Section 1 and by Laws 2003, Chapter 356, Section 22) is amended
10 to read:

11 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
12 PRECINCT BOARDS.--

13 A. Before opening an official mailing envelope, the
14 presiding judge and the election judges shall determine that
15 the required information has been completed on the reverse side
16 of the official mailing envelope.

17 B. If the voter's signature is missing, the
18 presiding judge shall write "Rejected" on the front of the
19 official mailing envelope. The election clerks shall enter the
20 voter's name in the signature rosters and shall write the
21 notation "Rejected--Missing Signature" in the "Notations"
22 column of the signature rosters. The presiding judge shall
23 place the official mailing envelope unopened in an envelope
24 provided for rejected ballots, seal the envelope and write the
25 voter's name on the front of the envelope and deposit it in the

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1 locked ballot box.

2 C. A lawfully appointed challenger may examine the
3 official mailing envelope and may challenge the ballot of any
4 absent voter for the following reasons:

5 (1) the official mailing envelope has been
6 opened prior to being received by the absent voter precinct
7 board; or

8 (2) the person offering to vote is not a
9 federal voter, federal qualified elector, overseas voter or
10 voter as provided in the Election Code.

11 Upon the challenge of an absentee ballot, the election
12 judges and the presiding election judge shall follow the same
13 procedure as when ballots are challenged when a person attempts
14 to vote in person. If a challenge is upheld, the official
15 mailing envelope shall not be opened but shall be placed in an
16 envelope provided for challenged ballots. The same procedure
17 shall be followed in canvassing and determining the validity of
18 challenged absentee ballots as with other challenged ballots.

19 D. If the official mailing envelope has been
20 properly subscribed and the voter has not been challenged:

21 [~~(1) the election judges shall open the~~
22 ~~official mailing envelope and deposit the ballot in its still-~~
23 ~~sealed official inner envelope in the locked ballot box; and~~

24 ~~(2)] (1) the election clerks shall enter the
25 absent voter's name and residence address as shown on the~~

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1 official mailing envelope in the signature rosters and shall
2 mark the notation "AB" opposite the voter's name in the
3 "Notations" column of the signature rosters; and

4 ~~[E. Prior to the closing of the polls, the election~~
5 ~~judges and the presiding election judge may either remove the~~
6 ~~absentee ballots from the official inner envelopes and count~~
7 ~~and tally the results of absentee balloting or, under the~~
8 ~~personal supervision of the presiding election judge and one~~
9 ~~election judge from each major political party, count and tally~~
10 ~~the absentee ballots on an electronic voting machine the same~~
11 ~~as if the absent voters had been present and voted in person.]~~

12 (2) under the personal supervision of the
13 presiding election judge, the election judges shall open the
14 official mailing envelope and the official inner envelope and
15 insert the enclosed ballot into an electronic voting system to
16 be registered and retained until votes are counted and
17 canvassed following the closing of the polls on election night.

18 E. It is unlawful for a person to disclose the
19 results of a count and tally or the registration on a voting
20 machine of absentee ballots prior to the closing of the polls.

21 F. Absentee ballots shall be counted and tallied on
22 an electronic voting machine as provided in the Election Code.

23 G. Absent voter precinct polls shall close at the
24 time prescribed by the Election Code for other polling places,
25 and the results of the election shall be certified as

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1 prescribed by the secretary of state.

2 ~~[H. The county clerk may convene the absent voter~~
3 ~~precinct board no more than three days before the day of the~~
4 ~~election to alphabetize, enter on the roster and sort the~~
5 ~~absentee ballots by legislative district; provided that a~~
6 ~~member of the absent voter precinct board shall not open an~~
7 ~~official mailing envelope or count and canvass any absentee~~
8 ~~ballot prior to the day of the election.~~

9 ~~F.]~~ H. If an absentee ballot does not contain the
10 identification required pursuant to Subsection D of Section
11 1-6-5 NMSA 1978, it shall be handled as a provisional paper
12 ballot in accordance with the Election Code."

13 Section 6. Section 1-6-20 NMSA 1978 (being Laws 1969,
14 Chapter 54, Section 3, as amended) is amended to read:

15 "1-6-20. CREATION OF ABSENT VOTER PRECINCT.--

16 A. The board of county commissioners shall adopt a
17 resolution creating, for absent voting purposes only, an absent
18 voter precinct for each ~~[state representative district in the~~
19 ~~county. The boundaries of such precinct shall coincide with~~
20 ~~the boundaries of the state representative district except for~~
21 ~~multicounty representative districts. In multicounty~~
22 ~~representative districts, the boundaries of the absent voter~~
23 ~~precinct in each county shall coincide with the boundaries of~~
24 ~~that portion of the representative district lying within the]~~
25 county.

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1 B. Absent voter precincts shall be identified by
2 the name of the county [~~and the state representative district~~
3 ~~number. In the case of multicounty representative districts,~~
4 ~~the absent voter precinct in each county shall be distinguished~~
5 ~~by the name of the county]."~~

6 Section 7. Section 1-6-22 NMSA 1978 (being Laws 1969,
7 Chapter 54, Section 4, as amended) is amended to read:

8 "1-6-22. DESIGNATION OF ABSENT VOTER PRECINCT POLLING
9 PLACE.--The board of county commissioners of each county shall
10 designate a polling place in each absent voter precinct at the
11 time such precinct is created [~~or consolidated~~]."

12 Section 8. Section 1-6-23 NMSA 1978 (being Laws 1975,
13 Chapter 255, Section 95, as amended) is amended to read:

14 "1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON
15 ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or
16 statutorily appointed supervisor of the election shall
17 determine the hours during which the absent voter precinct
18 polling place shall be open for delivery and registration of
19 ballots on the five days preceding election day and the
20 delivery, registration and counting of ballots on election day
21 and subsequent days until all ballots are counted."

22 Section 9. Section 1-9-4.1 NMSA 1978 (being Laws 2001,
23 Chapter 233, Section 15, as amended) is amended to read:

24 "1-9-4.1. TOUCH-SCREEN DIRECT RECORDING ELECTRONIC VOTING
25 SYSTEMS--STANDARDS.--

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1 A. A touch-screen direct recording electronic
2 voting system, as approved by the secretary of state, may be
3 used in any election for public office in New Mexico. As used
4 in this section, "system" means a touch-screen direct recording
5 electronic voting system.

6 B. The system shall:

7 (1) meet federal election performance and test
8 standards;

9 (2) provide for direct recording and
10 tabulating of votes cast;

11 (3) have internal application software that:

12 (a) is specifically designed and
13 engineered for the election application;

14 (b) is contained within each touch-
15 screen voting device;

16 (c) is stored in a nonvolatile memory
17 within each terminal;

18 (d) includes internal quality checks
19 such as purity or error detection and correction codes; and

20 (e) includes comprehensive diagnostics
21 to ensure that failures do not go undetected;

22 (4) have a battery backup that will, at a
23 minimum, allow voting to continue uninterrupted for two hours
24 without external power;

25 (5) have internal audit trail capability such

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1 that all pre-election, election day and post-election events,
2 including all random ballot image anomalies, shall be stored,
3 recorded and recovered in an easy-to-read printed form and be
4 retained within at least three independent memories that do not
5 require any type of external alternating current or direct
6 current battery power for memory retention;

7 (6) along with any and all activating and vote
8 recording devices and components, have a unique embedded
9 internal serial number for audit purposes;

10 (7) be a stand-alone, non-networked election
11 system such that all pre-election, election day and post-
12 election events and activities, including any and all entered
13 votes, are directly entered, recorded and retained in each
14 device in multiple memory locations within the device;

15 (8) for security purposes, along with each
16 associated activating and recording device and component,
17 employ a unique, electronically implanted election specific
18 internal security code such that the absence of such code
19 prevents substitution of any unauthorized system or related
20 component;

21 (9) be designed to accept challenged or fail-
22 safe ballots and allow voters to choose their ballot language
23 directly on the system;

24 (10) be designed to accommodate the maximum
25 number of ballot styles or ballot variations encountered in the

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1 largest New Mexico election jurisdiction;

2 (11) employ scalable technology allowing easy
3 enhancements that meet federal election standards and can take
4 advantage of new election technology such as larger touch-
5 screens, optional touch-screen types, expandable memory, modem
6 transmission of election results, ballot activation from
7 automated voter registration and internet communication
8 capabilities;

9 (12) have electronic components mounted on
10 printed circuit boards and subsistence, such as printer, power
11 sources, microprocessor, switch and indicator matrices modular
12 and luggable;

13 (13) have a realtime clock capable of
14 recording and documenting the total time polls are open in a
15 precinct and capable of documenting the opening and closing of
16 polls;

17 (14) prevent any voter from selecting more
18 than the allowable number of candidates for any office to
19 prevent overvoting, be able to alert the voter on a message
20 screen if the voter attempts to overvote and inform the voter
21 of any necessary corrective action;

22 (15) present the entire ballot to the voter in
23 a series of sequential pages that include methods to ensure the
24 voter sees all ballot options on all pages before completing
25 his vote and allow the voter to review all ballot choices

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1 before casting his ballot;

2 (16) have as an integral part of the system a
3 privacy curtain within which the voter casts his vote;

4 (17) have a color touch-screen that is at
5 least fifteen inches in diagonal measure; and

6 (18) be able to accommodate a wheelchair voter
7 without intervention of the poll worker other than a minor
8 adjustment such as the angle of the display, and the voter must
9 be able to vote in a face-first position so that privacy is
10 maintained with the ballot surface adjusted to a vertical
11 position.

12 C. If the net weight of the system, or aggregate of
13 voting device parts, is over twenty pounds, the system shall
14 have self-contained wheels so that the system can be easily
15 rolled by one person on rough pavement and can roll through a
16 standard thirty-inch door frame.

17 D. The device that is used by a poll worker to
18 activate the system for each individual voter shall be a
19 credit-card size "smart card" type of device. The poll worker
20 shall be able to activate the card at the poll table with an
21 activation device and hand the card to the voter to use on any
22 open voting system. The card shall be rendered unusable by the
23 voting system after the voter has cast a ballot. The system
24 must be compatible with the voter registration system so that
25 the precinct and party information for a specific voter can be

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1 transferred to the system automatically and transferred to the
2 smart card without poll-worker data entry. There shall be a
3 manual solution available in the event the smart card
4 activation device, or the smart card reading unit on the
5 machine, fails.

6 E. Each system shall be able to print an
7 alphanumeric printout of the contest, candidates, position
8 numbers and vote totals when the polls are open so that the
9 poll workers can verify that the counters for each candidate
10 are on zero. At the close of the polls, the system shall be
11 able to print out in the same format the results of the
12 election. These printouts shall contain the system serial
13 number, public counter total and protective counter number.
14 The poll worker must be able to request as many copies as
15 necessary by state law. The system shall include a feature to
16 allow reports to be sent to a printer, the screen and a file.

17 F. The system central processing unit shall be
18 designed so that no executable code can be launched from random
19 access memory. If the operating system is open or widely used,
20 it shall be an embedded system.

21 G. The system shall have a mandatory pre-election
22 testing of the ballot control logic and accuracy. The logic
23 and accuracy test results must be stored into the memory of the
24 main processor (central processing unit) and into the same
25 programmable memory device that is used on election day for

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1 future reference. This should be stored by vote total
2 summaries and by each individual ballot image randomly. The
3 system must be capable of printing a zero-results printout
4 prior to these tests and a results printout after the test.

5 H. The system shall provide an electronic,
6 redundant storage of both the vote totals and the randomized
7 individual ballot images.

8 I. The system shall allow a comparison of the
9 multiple locations of totals and ballot images to detect any
10 errors or discrepancies. In the event of a data discrepancy,
11 an appropriate error message shall be displayed in a text
12 format, in order to either correct the data error or prohibit
13 voting from continuing.

14 J. The system shall have a programmable memory
15 device that plugs into the system. The programmable memory
16 device shall contain ballot control information, summary vote
17 totals, maintenance log, operator log and randomized ballot
18 images.

19 K. The system shall maintain all vote totals,
20 public counter totals, audit trail ballot images, protective
21 counter totals and the internal clock time in both the main
22 memory and the removable programmable memory devices in the
23 event the main power and battery backup power fail.

24 L. The system shall have a self-contained, internal
25 backup battery that powers all components of the system that

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1 are powered by alternating current power. In the event of a
2 power outage in the precinct, the self-contained, internal
3 backup battery power shall engage with no disruption of
4 operation or loss of data. The system shall maintain all vote
5 totals, public counter totals, audit trail ballot images,
6 protective counter totals and the internal clock time in both
7 the main memory and the removable programmable memory devices
8 in the event the main power and battery backup power fail.

9 M. The system software shall be able to:

- 10 (1) run in a networked or stand-alone
11 environment;
- 12 (2) support absentee in-person voting;
- 13 (3) collect and keep separate the absentee in-
14 person vote totals by day collected, by machine [~~by legislative~~
15 ~~district~~] and by site; and
- 16 (4) collect statistical data such as turnout
17 so that it is available by date and site."

18 Section 10. Section 1-9-16 NMSA 1978 (being Laws 1985,
19 Chapter 207, Section 15, as amended) is amended to read:

20 "1-9-16. ELECTRONIC VOTING SYSTEMS--VOTE TABULATING
21 SYSTEMS--STANDARDS.--

22 A. Electronic vote tabulating systems, as tested
23 and approved by the secretary of state pursuant to the
24 provisions of Section 1-9-14 NMSA 1978, may be used in any
25 election for public office in New Mexico for the purpose of

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1 tabulating ballots.

2 B. The electronic vote tabulating system shall meet
3 the following standards:

4 (1) the machine shall be an electronic
5 computer-controlled voting system that provides for the direct
6 electronic tabulation of votes cast;

7 (2) the operating software of the vote
8 tabulating system shall be stored in nonvolatile memory and
9 shall include internal quality checks such as parity or error
10 detection and correction codes. The software shall include
11 comprehensive diagnostics to ensure that failures do not go
12 undetected;

13 (3) the system shall have a battery backup
14 that will, as a minimum, retain voter information and be
15 capable of retaining and restoring processor operating
16 parameters in the event of power failures;

17 (4) the system shall provide alphanumeric
18 printouts of the vote totals by [~~legislative district~~] precinct
19 at the closing of the polls;

20 (5) the system shall have, as a standard or as
21 an option, software and hardware provisions for remote
22 transmission of election results to a central location;

23 (6) subsistence, such as printer, power
24 sources, microprocessor, switch and indicator matrices, shall
25 be modular and luggable. Electronic components shall be

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1 mounted on printed circuit boards;

2 (7) the system shall be supplied with a dust-
3 and moisture-proof cover for transportation and storage
4 purposes;

5 (8) the system shall be able to operate in a
6 temperature range of fifty degrees Fahrenheit to ninety degrees
7 Fahrenheit;

8 (9) the system shall have a temperature range
9 for storage of zero degrees Fahrenheit to one hundred twenty
10 degrees Fahrenheit;

11 (10) the system shall have an operating and
12 storage humidity of thirty percent to eighty percent
13 noncondensing;

14 (11) the system shall accept a line voltage of
15 115 VAC +- fifteen percent, 60 HZ;

16 (12) the system memory pack shall be able to
17 accept over one thousand five hundred voting positions and
18 tabulate over sixty-five thousand votes for each position;

19 (13) the system shall accept a ballot inserted
20 in any orientation and one that is a minimum six inches wide
21 and a maximum twenty-four inches long, in dual columns and
22 printed on both sides. The ballot shall be able to hold a
23 maximum of five hundred twenty candidate positions;

24 (14) the system shall recognize all errors and
25 be able to reject or return a ballot that contains an error.

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1 The tabulator shall automatically be able to detect an
2 overvoted ballot;

3 (15) the system shall contain an RS-232 data
4 communications capability to transmit totals;

5 (16) the system shall contain a public display
6 counter to record the number of ballots processed; and

7 (17) the system should be programmable with
8 control cards.

9 C. In determining compliance with the standards set
10 forth in Subsection B of this section, the qualification test
11 report made pursuant to the performance and test standards of
12 federal election law shall be considered insofar as it is
13 applicable."

14 Section 11. Section 1-14-14 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 343, as amended) is amended to read:

16 "1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

17 A. Whenever any candidate for any office for which
18 the state canvassing board or county canvassing board issues a
19 certificate of nomination or election believes that any error
20 or fraud has been committed by any precinct board in counting
21 or tallying the emergency paper ballots, provisional paper
22 ballots or absentee ballots, in the verification of the votes
23 cast on the voting machines or in the certifying of the results
24 of any election whereby the results of the election in the
25 precinct have not been correctly determined, declared or

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1 certified, the candidate, within six days after completion of
2 the canvass by the proper canvassing board, may have a recount
3 of the emergency paper ballots, provisional paper ballots or
4 absentee ballots, or a recheck of the votes shown on the voting
5 machines, that were cast in the precinct.

6 B. The county canvassing board shall recount the
7 emergency paper ballots, provisional paper ballots or absentee
8 ballots, or recheck the votes recorded on the voting machines,
9 if, within six days of completion of the county canvass, the
10 district court of the county receives a written petition from
11 at least twenty-five voters of the county requesting a recount
12 or recheck of the results in an election on a ballot question.

13 [~~B-~~] C. In the case of any office for which the
14 state canvassing board issues a certificate of nomination or
15 election, application for recount or recheck shall be filed
16 with the secretary of state.

17 [~~G-~~] D. In the case of any office for which the
18 county canvassing board issues a certificate of nomination or
19 election, application for recount or recheck shall be filed
20 with the district judge for the county in which the applicant
21 resides.

22 E. In the case of an election on a ballot question,
23 the petition for recount or recheck shall be filed with the
24 district judge for the county in which the petitioners reside."

25 Section 12. Section 1-14-17 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 346, as amended) is amended to read:

2 "1-14-17. RECOUNT AND RECHECK PROCEEDINGS--COUNTY.--

3 A. Immediately upon filing of the application or
4 petition for recount or recheck, the district judge shall by
5 order fix the place and date of the recount or recheck, which
6 date shall not be more than ten days after the filing of the
7 application or petition. Such order of the district judge
8 shall direct the county clerk to issue a summons to the
9 precinct board of the precinct complained of. It shall command
10 them to attend at the time and place specified therein and to
11 make such recount or recheck.

12 B. The summons shall be forthwith personally served
13 by the sheriff upon each precinct board member.

14 C. The county clerk shall notify the county
15 chairman of each political party that participated in the
16 election in that precinct of the date and place fixed for the
17 recount or recheck. The notice shall be by registered mail.

18 D. The precinct board, district judge and county
19 clerk shall meet at the county courthouse at 10:00 a.m. on the
20 date set.

21 E. The ballot boxes or voting machines of the
22 precincts involved in the recount or recheck shall be unlocked,
23 and the precinct board shall recount and retally the emergency
24 paper ballots, provisional paper ballots and absentee ballots,
25 or recheck the votes cast on the voting machine, for the office

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1 in question or the ballot question in the presence of the
2 district judge, or person designated to act for him, the county
3 clerk and any other person who desires to be present.

4 F. At the recount, the precinct board of a precinct
5 using emergency paper ballots, provisional paper ballots or
6 absentee ballots shall recount and retally only the ballots
7 [~~which~~] that the presiding judge accepted and placed in the
8 ballot box as legal ballots at the time they were cast.

9 G. After completion of the recount or recheck, the
10 emergency paper ballots, provisional paper ballots or absentee
11 ballots shall be placed in the ballot box and locked, or the
12 voting machines shall be locked and resealed, and the precinct
13 board shall certify to the county canvassing board the results
14 of the recount or recheck. The district judge and county clerk
15 shall certify that such recount or recheck was made in their
16 presence."

17 Section 13. Section 1-14-18 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 347, as amended) is amended to read:

19 "1-14-18. RECOUNT--RECHECK--RECANVASS BY CANVASSING
20 BOARDS.--

21 A. Immediately upon receipt of the certificate of
22 recount or recheck from all the precinct boards making a
23 recount or recheck, the proper canvassing board shall meet and
24 recanvass the returns for the office in question or the ballot
25 question.

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1 B. In making the recanvass, the proper canvassing
2 board shall be bound by the certificates of recount or recheck
3 from the precinct boards instead of the original returns from
4 those precinct boards.

5 C. After the recanvass, if it appears that fraud or
6 error has been committed sufficient to change the winner of the
7 election, then the proper canvassing board shall revoke the
8 certificate of nomination or election already issued to any
9 person for that office and shall issue a certificate of
10 nomination or election in favor of the person receiving a
11 plurality of the votes cast at the election as shown by the
12 recount or recheck, and such certificate shall supersede all
13 others and entitle the holder to the same rights and
14 [~~privileges~~] privileges as if such certificate had been
15 originally issued by the canvassing board.

16 D. After the recanvass, if it appears that fraud or
17 error has been committed sufficient to change the results of
18 the election in the case of a ballot question, then the state
19 canvassing board shall revoke the declaration already issued on
20 that ballot question and declare the results of the election as
21 shown by the recount or recheck, and the declaration of results
22 shall supersede all others as if the declaration has been
23 originally issued by the canvassing board."

24 Section 14. Section 1-19-31 NMSA 1978 (being Laws 1979,
25 Chapter 360, Section 7, as amended) is amended to read:

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1 "1-19-31. CONTENTS OF REPORT.--

2 A. Each required report of expenditures and
3 contributions shall be typed or printed legibly, or on a
4 computer disc or format approved by the secretary of state, and
5 shall include:

6 (1) the name and address of the person or
7 entity to whom an expenditure was made or from whom a
8 contribution was received, except as provided for anonymous
9 contributions or contributions received from special events as
10 provided in Section 1-19-34 NMSA 1978; provided that for
11 contributors, the name of the entity or the first and last
12 names of any individual shall be the full name of the entity or
13 individual, and initials only shall not constitute a full name
14 unless that is the complete legal name;

15 (2) the name, address, type of business or
16 occupation of the person or entity to whom an expenditure was
17 made for the purpose of having the person or entity promote a
18 political purpose for a candidate and the type of expenditure
19 made by that person or entity on behalf of the candidate;

20 [~~2~~] (3) the occupation or type of business
21 of any person or entity making contributions of two hundred
22 fifty dollars (\$250) or more in the aggregate per election;

23 [~~3~~] (4) the amount of the expenditure or
24 contribution or value thereof;

25 [~~4~~] (5) the purpose of the expenditure; and

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1 [~~5~~] (6) the date the expenditure was made or
2 the contribution was received.

3 B. The report of expenditures and contributions
4 shall be subscribed and sworn to by the candidate or the
5 treasurer of the political committee. If the report of
6 expenditures and contributions is filed in an electronically
7 readable format, the report shall be subscribed and sworn to in
8 an independent affidavit signed by the candidate or the
9 treasurer of the political committee and delivered to the
10 secretary of state within forty-eight hours after the report is
11 electronically filed.

12 C. Each report shall contain an opening and closing
13 cash balance for the bank account maintained by the reporting
14 individual during the reporting period and the name of the
15 financial institution.

16 D. Each report shall specify the amount of each
17 unpaid debt and the identity of the person to whom the debt is
18 owed."

19 Section 15. A new section of the Election Code is enacted
20 to read:

21 "[NEW MATERIAL] POST-ELECTION DUTIES--COUNTY CANVASSING
22 BOARD REQUEST FOR ASSISTANCE.--The county canvassing board may
23 request the secretary of state to provide assistance in
24 conducting the county canvass if, in the opinion of the board,
25 the county clerk is unable to complete the canvass in a timely

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1 fashion."

2 Section 16. A new section of the Election Code is enacted
3 to read:

4 "[NEW MATERIAL] ELECTRONIC VOTING SYSTEMS--STANDARDIZED
5 REPORTING FORMAT.--All electronic voting systems and vote
6 tabulating systems approved for use in New Mexico that are
7 purchased after May 20, 2004 shall be capable of remote
8 transmission of election results to a central location in a
9 format to be determined by the secretary of state."

10 Section 17. Laws 2003, Chapter 66, Section 5 is amended
11 to read:

12 "Section 5. EFFECTIVE DATE.--The effective date of the
13 provisions of Sections 2 and 3 of [~~this act~~] Laws 2003, Chapter
14 66 is [~~January 1, 2006~~] January 1, 2005."

15 Section 18. REPEAL.--Section 1-6-21 NMSA 1978 (being Laws
16 1975, Chapter 255, Section 93, as amended) is repealed.

17 Section 19. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is May 20, 2004.